

House Amendment 1349

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1 1 Amend House File 796 as follows:
1 2 #1. Page 1, by inserting before line 1 the
1 3 following:
1 4 <Section 1. Section 123.46, Code 2007, is amended
1 5 by adding the following new subsection:
1 6 NEW SUBSECTION. 3A. If a person under the age of
1 7 eighteen commits a violation of this section, the
1 8 matter shall be disposed of in the manner provided in
1 9 chapter 232.
1 10 Sec. 2. Section 123.46, subsection 4, Code 2007,
1 11 is amended to read as follows:
1 12 4. a. A peace officer shall make a reasonable
1 13 effort to identify a person under the age of eighteen
1 14 who violates this section and, ~~if the person is not~~
~~1 15 referred to juvenile court, the law enforcement agency~~
~~1 16 of which the peace officer is an employee shall make a~~
~~1 17 reasonable attempt to notify the person's custodial~~
1 18 parent, or legal guardian, or custodian of the
1 19 violation, whether or not the person is taken into
~~1 20 custody, unless the officer has reasonable grounds to~~
~~1 21 believe that notification is not in the best interests~~
~~1 22 of the person or will endanger that person pursuant to~~
1 23 section 232.19, subsection 2.
1 24 b. The peace officer shall also make a reasonable
1 25 effort to identify the elementary or secondary school
1 26 which the person attends if the person is enrolled in
1 27 elementary or secondary school and to notify the
1 28 superintendent or the superintendent's designee of the
1 29 school which the person attends, or the authorities in
1 30 charge of the nonpublic school which the person
1 31 attends, of the violation. ~~If the person is taken~~
~~1 32 into custody, the~~ The peace officer shall notify a
1 33 juvenile court officer who shall make a reasonable
1 34 effort to identify the elementary or secondary school
1 35 the person attends, if any, and to notify the
1 36 superintendent of the school district or the
1 37 superintendent's designee, or the authorities in
1 38 charge of the nonpublic school, of the violation. A
1 39 reasonable attempt to notify the person includes, but
1 40 is not limited to, a telephone call or notice by
1 41 first-class mail.>
1 42 #2. Page 1, by inserting after line 27 the
1 43 following:
1 44 <Sec. _____. Section 123.47, subsection 3, paragraph
1 45 c, Code 2007, is amended to read as follows:
1 46 c. If the a person who under the age of eighteen
~~1 47 commits a violation of this section is under the age~~
~~1 48 of eighteen, the matter shall be disposed of in the~~
1 49 manner provided in chapter 232.>
1 50 #3. Page 2, by inserting after line 2 the
2 1 following:
2 2 <Sec. _____. Section 123.47B, Code 2007, is amended
2 3 to read as follows:
2 4 123.47B PARENTAL AND SCHOOL NOTIFICATION ==
2 5 PERSONS UNDER EIGHTEEN YEARS OF AGE.
2 6 1. A peace officer shall make a reasonable effort
2 7 to identify a person under the age of eighteen
2 8 discovered to be in possession of alcoholic liquor,
2 9 wine, or beer in violation of section 123.47 and ~~if~~
~~2 10 the person is not referred to juvenile court, the law~~
~~2 11 enforcement agency of which the peace officer is an~~
~~2 12 employee shall make a reasonable attempt to notify the~~
2 13 person's custodial parent, or legal guardian, or
2 14 custodian of such possession, ~~whether or not the~~
~~2 15 person is arrested or a citation is issued pursuant to~~
~~2 16 section 805.16, unless the officer has reasonable~~
~~2 17 grounds to believe that such notification is not in~~
~~2 18 the best interests of the person or will endanger that~~
2 19 person pursuant to section 232.19, subsection 2.
2 20 2. The peace officer shall also make a reasonable
2 21 effort to identify the elementary or secondary school
2 22 which the person attends if the person is enrolled in
2 23 elementary or secondary school and to notify the
2 24 superintendent or the superintendent's designee of the

2 25 school which the person attends, or the authorities in
2 26 charge of the nonpublic school which the person
2 27 attends, of the possession. ~~If the person is taken~~
~~2 28 into custody, the~~ The peace officer shall notify a
2 29 juvenile court officer who shall make a reasonable
2 30 effort to identify the elementary or secondary school
2 31 the person attends, if any, and to notify the
2 32 superintendent of the school district or the
2 33 superintendent's designee, or the authorities in
2 34 charge of the nonpublic school, of the taking into
2 35 custody. A reasonable attempt to notify the person
2 36 includes but is not limited to a telephone call or
2 37 notice by first-class mail.

2 38 Sec. _____. Section 232.8, subsection 1, paragraph
2 39 b, Code 2007, is amended to read as follows:

2 40 b. Violations Except for violations by a child of
2 41 section 321.284 or 321.284A, violations by a child of
2 42 provisions of chapter 321, 321G, 321I, 453A, 461A,
2 43 461B, 462A, 481A, 481B, 483A, 484A, or 484B, which
2 44 would be simple misdemeanors if committed by an adult,
2 45 and violations by a child of county or municipal
2 46 curfew or traffic ordinances, are excluded from the
2 47 jurisdiction of the juvenile court and shall be
2 48 prosecuted as simple misdemeanors as provided by law.
2 49 A child convicted of a violation excluded from the
2 50 jurisdiction of the juvenile court under this
3 1 paragraph shall be sentenced pursuant to section
3 2 805.8, where applicable, and pursuant to section
3 3 903.1, subsection 3, for all other violations.

3 4 Sec. _____. Section 321.284, Code 2007, is amended
3 5 to read as follows:

3 6 321.284 OPEN CONTAINERS IN MOTOR VEHICLES ==
3 7 DRIVERS.

3 8 1. A driver of a motor vehicle upon a public
3 9 street or highway shall not possess in the passenger
3 10 area of the motor vehicle an open or unsealed bottle,
3 11 can, jar, or other receptacle containing an alcoholic
3 12 beverage. "Passenger area" means the area designed to
3 13 seat the driver and passengers while the motor vehicle
3 14 is in operation and any area that is readily
3 15 accessible to the driver or a passenger while in their
3 16 seating positions, including the glove compartment.
3 17 An open or unsealed receptacle containing an alcoholic
3 18 beverage may be transported in the trunk of the motor
3 19 vehicle. An unsealed receptacle containing an
3 20 alcoholic beverage may be transported behind the last
3 21 upright seat of the motor vehicle if the motor vehicle
3 22 does not have a trunk. A person convicted of a
3 23 violation of this section is guilty of a simple
3 24 misdemeanor punishable as a scheduled violation under
3 25 section 805.8A, subsection 14, paragraph "e".

3 26 2. If a person under the age of eighteen commits a
3 27 violation of this section, the matter shall be
3 28 disposed of in the manner provided in chapter 232.

3 29 Sec. _____. Section 321.284A, Code 2007, is amended
3 30 by adding the following new subsection:

3 31 NEW SUBSECTION. 5. If a person under the age of
3 32 eighteen commits a violation of this section, the
3 33 matter shall be disposed of in the manner provided in
3 34 chapter 232.

3 35 Sec. _____. Section 805.8A, subsection 14, paragraph
3 36 e, Code 2007, is amended to read as follows:

3 37 e. OPEN CONTAINER VIOLATIONS. For violations
3 38 under sections 321.284 and 321.284A, the scheduled
3 39 fine is one hundred dollars. This paragraph shall not
3 40 apply to a person under the age of eighteen who
3 41 commits a violation under section 321.284 or 321.284A.

3 42 Sec. _____. Section 805.8C, subsection 7, Code 2007,
3 43 is amended to read as follows:

3 44 7. ALCOHOLIC BEVERAGE VIOLATIONS BY PERSONS UNDER
3 45 LEGAL AGE. For first offense violations of section
3 46 123.47, subsection 3, the scheduled fine is two
3 47 hundred dollars. This subsection shall not apply to a
3 48 person under the age of eighteen who commits a
3 49 violation of section 123.47.

3 50 Sec. _____. Section 805.16, subsection 1, Code 2007,
4 1 is amended to read as follows:

4 2 1. Except as provided in this subsection and in
4 3 subsection 2 of this section, a peace officer shall
4 4 issue a police citation or uniform citation and
4 5 complaint, in lieu of making a warrantless arrest, to

4 6 a person under eighteen years of age accused of
4 7 committing a simple misdemeanor under chapter 321,
4 8 321G, 321I, 461A, 461B, 462A, 481A, 481B, 483A, 484A,
4 9 484B, or a local ordinance not subject to the
4 10 jurisdiction of the juvenile court, and shall not
4 11 detain or confine the person in a facility regulated
4 12 under chapter 356 or 356A. This subsection shall not
4 13 apply to a person under the age of eighteen for
4 14 violations of section 123.46, 123.47, 321.284, or
4 15 321.284A.>
4 16 #4. Title page, by striking line 2 and inserting
4 17 the following: <beverage by minors and persons under
4 18 legal age and providing a>.
4 19 #5. By renumbering as necessary.
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4 21
4 22 _____
4 23 ALONS of Sioux
4 24 HF 796.201 82
4 25 rh/es/7841